

REMARKS

Claims 1-5 and 7-19 are currently pending in this application. Claim 3 is amended and claim 6 is cancelled without prejudice or disclaimer. Claims 15-19 are added.

The courtesies extended by Examiner Dohm Chankong to Applicant's representative, Darrin Auito, during the July 7, 2005 Examiner Interview are greatly appreciated. The substance of such interview is incorporated into the following remarks.

Claims 3 and 6 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have cancelled claim 6 and amended claim 3 to recite "a periodic status notice." Accordingly, withdrawal of the rejections is now respectfully requested.

Claims 1-7 were rejected under 35 U.S.C. §103(a) as being unpatentable over *Li et al.* (U.S. Patent No. 5,473,599) in view of *Wang et al.*, (U.S. Patent No. 6,587,970); claims 8 and 9 were rejected under *Li* and *Wang*, in further view of Applicant's admitted prior art ["AAPA"]; claims 10 and 11 were rejected as being unpatentable over *Wang*, in view of *Kanekar* (U.S. Patent No. 6,751,191); claim 12 were rejected as being unpatentable over *Li* and *Wang*, in further view of Official Notice; and claims 13 and 14 were rejected as being unpatentable over *Li* and *Wang* and AAPA, in further view of Official Notice.

For at least the following reasons, the listing of claims on page 2 distinguishes over the references cited by the Examiner. Accordingly, withdrawal of the rejections is now respectfully requested.

In rejecting claim 1, the Examiner admitted that *Li* fails to disclose a “common unit that performs the functions” of switching and monitoring. The Examiner asserted that *Wang* discloses the use of a controller unit that performs switching and monitoring duties [Figure 1, item 160; column 7, lines 3-22] for the advantage of having an automatic detection and failover capability that is provided by the controller. As such, the Examiner stated that it would have been obvious to have implemented *Li*’s monitoring and switching functionalities into a separate controller as taught by *Wang* and that one would have been motivated to perform this implementation in *Li* for the stated advantage of “centralizing router selection, automatic failover detection and alleviating the responsibility from *Li*’s routers.”

One skilled in the relay apparatus arts at the time of the invention would not have looked to the teachings of *Wang et al.* That is, one of ordinary skill in the art would not have been motivated by *Wang et al* to modify the standby router device of *Li* by implementing *Li*’s monitoring and switching functionalities into a separate control unit. *Wang et al* discloses a controller unit that detects a change in the operational status of the primary host computer 110 and, in response to this change in operational status, automatically alters the operational status of the secondary host computer 120 [column 7, lines 3-7]. *Li* provides a system having redundant routers for receiving packets from a host on a LAN (i.e., “the invention provides standby group of routers including an active router which handles packets from the host and a standby router which backs up the active router should it fail.”) *Li* is not concerned with detecting a change in the operational status of a first host computer and therefore one skilled in the art would not have looked to the teachings of *Wang et al* to modify the device of *Li* as discussed above.

Even if one were to combine the teachings of *Li* and *Wang et al*, the combination would not result in the claimed invention. One objective of the present invention is to provide a relay apparatus which can select duplexed relay functions and select duplexed host computers (present system and standby system) in accordance with the input operations. To accomplish this objective, in part, claim 1 recites a relay apparatus having a “common unit which makes one of said first basic unit and said second basic unit operative as a present system, monitors its status, and when an abnormality is detected during said monitoring operation, stops the basic unit of the present system and switches it to an operation of the basic unit of a standby system.” The *Li* reference, fails to teach or suggest incorporating either a common unit or duplexed host computers. Therefore, the Examiner’s assertion that it would be obvious to provide a separate controller is based on hindsight.

Another objective of the present invention is to provide a relay apparatus having a duplex structure of a high line use efficiency in which it is sufficient to use one network address [p. 5]. Accordingly, claim 1 recites a relay apparatus having a first basic unit “into which a peculiar network address is set” and a second basic unit “into which the same network address as that of said first basic unit is set”. *Li* does not teach or suggest this limitation.

Instead, *Li* discloses routers with different IP addresses associated with each interface of the routers [column 6, lines 53-57]. For instance, *Li* teaches that “[i]n the router group shown in FIG. 2a there will be 4 pairs of addresses (each pair includes a MAC and a network layer address): one for router R1, one for router R2, one for router R3, and one for the group or virtual router R4.” Therefore, *Li* teaches away from the claimed invention.

Accordingly, the combination of references cited by the Examiner will suffer the same problem disclosed in the specification of the present application, namely increased line costs.

[P. 4 “The system using such conventional relay apparatuses with the duplex structure as mentioned above has the following problems. First, since the duplex structure is formed by individually connecting the relay apparatuses 204-1 and 204-2 to the host computers 200-1 and 200-2 of the present system and standby system, it is necessary to assure peculiar network addresses, for example, IP addresses (10.1.1) and (10.1.2) for the relay apparatuses 2041 and 204-2, respectively, so that line costs increase.”]

In view of the above arguments, Applicants respectfully request withdrawal of the §103 rejection of claim 1. As Claims 2-5, 7-9 and 12-14 depend from claim 1, they should likewise allowable in light of the above remarks by nature of their dependency.

In rejecting claims 10 and 11, the Examiner acknowledged that *Kanekar et al* does not specifically disclose a common unit that performs switching and monitoring duties. The Examiner applied *Wang et al* for its disclosure of a controller unit that performs switching and monitoring duties for the obtained advantage of having an automatic detection and failover capability that is provided by the controller [Column 7, Lines 3-22]. As such, the Examiner argued that it would have been obvious to one of ordinary skill in the art to have implemented *Kanekar et al.* 's monitoring and switching functionalities into a separate controller. For at least the following reasons, the listing of claims on page 2 distinguishes over the references cited by the Examiner. Accordingly, withdrawal of the rejection of claims 10 and 11 is now respectfully requested.

If one were to combine the cited references, the resultant combination would not be the claimed invention. One objective of the present invention is to provide a relay apparatus which can select duplexed relay functions and select duplexed host computers (present system and standby system) in accordance with the input operations. To accomplish this objective, claim 10 recites a relay apparatus comprising a "common unit which instructs said basic unit to select the host computer of the present system or said host computer of the standby system and activates the selected host computer." The Examiner's assertion that providing a separate controller would have been obvious appears to be based on hindsight.

Further, as emphasized during the Examiner Interview, in the presently claimed invention, unlike in the cited references, in order to set the same address, it is not necessary to set again the same address on the device side.

Applicants add Claims 15-19. For at least the reasons stated above, these claims are distinct from the references cited by the Examiner. Accordingly, Applicants respectfully request that these claims be allowed.

In view of the aforementioned amendments and accompanying remarks, Applicants submit that the claims, as herein amended, are in condition for allowance. Applicants request such action at an early date.

If the Examiner believes that this application is not now in condition for allowance, the Examiner is requested to contact Applicants' undersigned attorney to arrange for an interview to expedite the disposition of this case.

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If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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